

The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

BERNARD ROSS HANSEN and
DIANE RENEE ERDMANN,

Defendants.

NO. CR18-0092 RAJ

UNITED STATES' REPLY IN
SUPPORT OF MOTION TO
DISPOSE OF RECORDS

Comes now the United States of America, by Tessa M. Gorman, United States Attorney for the Western District of Washington, and Andrew C. Friedman, Assistant United States Attorney for said District, and files this Reply in Support of Motion to Dispose of Records.

The United States has filed a motion seeking to destroy, or turn over to Defendants, Ross Hansen and Diane Erdmann, records that the government believes have no further value in the case and that government does not wish to continue paying \$1,152 per month to store. *See* United States' Motion to Dispose of Records (Docket No. 549). Defendants have opposed that motion and make several arguments as to why the government should be required to continue to store the records until a petition for certiorari to challenge their appeal is denied, or the time to file such a petition expires. *See* Response to Government's Motion to Dispose of Records. (Docket No. 551) (hereinafter, Defendant Erdmann's Opposition); Opposition to Government's Motion to

1 Dispose of Records (Docket No. 552) (hereinafter, Defendant Hansen’s Opposition).
2 None has merit.

3 Defendants argue that the government previously “stipulated to the relevance of
4 the now-disputed records contrasting them with other records that were ‘irrelevant to the
5 pending criminal case.’” Defendant Erdmann’s Opposition, at 1 (Docket No. 549). It is
6 true the parties stipulated that other records were “irrelevant to further bankruptcy
7 proceedings or the pending criminal case.” Stipulation of the Parties Re: Motion for
8 Order to Prevent Spoliation of Evidence, at 3 (Docket No. 47). But, that is a different
9 thing, and the government did *not* stipulate that the records now at issue were, in fact,
10 relevant.

11 Second, Defendants argue that “the government identifies nothing different since
12 the Court’s stipulated preservation order other than the fact that the Federal Center South
13 – where the records are being stored – ‘will be closing in early 2025.’” Defendant
14 Erdmann’s Opposition, at 1 (Docket No. 549). But, the situation today is far different
15 than it was in 2018. Both parties have had the chance to review the records. Both have
16 had the opportunity to copy relevant records. And, both have learned their cases, and
17 presented cases at trial that included any records that they had deemed worthy of use. As
18 a result, the rationale for preserving a large additional volume of material is far less than
19 previously was the case (even ignoring the fact that both defendants have been convicted
20 and their appeals have now been denied in a memorandum opinion that was issued since
21 the time of the government’s filing of the present motion).

22 Third, Defendant Erdmann at least argues that “she cannot afford to store the
23 records herself.” Defendant Erdmann’s Opposition, at 2. It may be the case that the
24 Defendants cannot personally afford to store the records, given that both were appointed
25 counsel. But, the appropriate response to that argument is that they should be required to
26 justify to the CJA panel, the Court, or other relevant decisionmaker that the records
27 should be preserved and to pay for continued storage.

To be clear, the government is not demanding to destroy the records. The
government has offered to make them available to the Defendants (assuming the

1 Defendants convince the CJA panel or the Court that they should be preserved and that it
2 is worth paying to do that). But, the government should not be required to continue to
3 store records it believes have no value - and that Defendants have failed to show have any
4 value - at its own considerable expense. For these reasons, and those set forth in the
5 government's original motion, the Court should grant the government's motion.

6 DATED: June 24, 2024.

7 Respectfully submitted,

8 TESSA M. GORMAN
9 United States Attorney

10 /s/ Andrew C. Friedman

11 _____
12 ANDREW C. FRIEDMAN
Assistant United States Attorney

13 I certify that this pleading contains
14 603 words, in compliance with
15 the Local Criminal Rules